

To be a special proceeding. Court to appoint three commissioners.

Commissioners, after notice to landowners, to determine question as to common fence.

If affirmative decision, then commissioners to determine route of fence, &c.

Commissioners to report to court. Confirmation of report.

If landowners cannot agree, court to appoint person to construct fence, &c.

Judgment against landowner failing to contribute, &c.

Procedure in matter of repairs.

Landowner not intending to use land for pasture, &c., not bound by proceeding.

Landowner not intending to cultivate his land, &c., not liable for contribution to maintain fence.

Code, vol. 2, chap. 20, applicable to territory described in this act. Exception.

same shall be a special proceeding, and shall be governed by the same laws and procedure as other special proceedings. On the return day thereof when the petition shall be heard the court shall appoint three commissioners, who shall be duly sworn to do justice between the parties.

SEC. 3. The commissioners, or a majority of them, on a day of which each proprietor of land aforesaid shall receive (5) five days notice, shall meet on the premises and view the lands proposed to be enclosed by a common fence, and shall determine whether such lands can so conveniently and to the best interests of such landowners be enclosed by a common fence; and if they shall decide in the affirmative they shall determine the course and route of said fence, and also the proportion of the whole cost which each landowner shall bear and pay in the construction of said fence and in the future maintenance of the same in good condition.

SEC. 4. The said commissioners shall report in writing under their hands within twenty days the whole matter to the court, which shall confirm the same unless good cause be shown to the contrary. If the said landowners cannot subsequently agree as to the manner of constructing such fence, or which of their number shall superintend the construction of the same, or shall refuse to pay their proportionate part of the cost of same, then upon ten days notice by the court to all such landowners the court shall, on motion, appoint one of said landowners or some disinterested person with authority to construct said fence, who shall report his action to the court; and if any landowner shall fail to contribute his proportion of labor or money and the same be shown on oath the court shall, unless good cause be shown on return of notice to the party, render judgment for the same with interest and cost. The same procedure shall govern in all repairs to said fence, and the provisions of this act shall apply to all future owners or occupiers of said lands.

SEC. 5. If any such landowner in such proceeding shall state that he does not intend to use his land for pasture or cultivate his land he shall not be bound by such proceeding, but he shall maintain his division fences as provided by The Code, sections two thousand eight hundred to two thousand eight hundred and seven, inclusive; and if any such landowner shall determine neither to cultivate his land nor to permit his stock to run thereon he may give each of such other landowners three months notice of such intention between December one and March fifteen, when he shall no longer be liable to contribute to the maintenance of such common fence.

SEC. 6. The provisions of The Code, volume two, chapter twenty, regarding the running of stock at large, not inconsistent herewith, shall apply to the territory embraced within such common fence, except that by the unanimous consent in writing of all such landowners the stock of one or more thereof may run at large or pasture